U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33942824

Date: OCT. 4, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner is a researcher who seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Texas Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the Petitioner did not establish her eligibility. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The foreign national enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The foreign national's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-step analysis. In the first step, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner

does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then move to the second step to consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (discussing a two-step review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

II. ANALYSIS

The Petitioner completed her PhD in Biological Science in 2022, and when she filed the petition she worked for a clinical-stage biotechnology company.

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director decided that the Petitioner satisfied two of the criteria relating to judging and authoring scholarly articles, but she had not satisfied the criteria associated with original contributions of major significance. On appeal, the Petitioner maintains that she meets the contributions criterion as well as performing in a leading or critical role. After reviewing all the evidence in the record, we agree with the Director's ultimate determination.

We begin addressing counsel's argument in the appeal brief that the Director improperly invoked a precedent decision: *Matter of Katigbak*, 14 I&N Dec. 45 (Reg'l Comm'r 1971). The Director accepted the Petitioner's Google Scholar profile printout she filed with the petition, but when she offered an updated profile in her request for evidence (RFE) response, the Director cited to *Katigbak* and noted they would only consider evidence that existed on the date she filed the petition. While the Petitioner attempts to distinguish this case's facts with those in *Katigbak* and they view this as an error, we do not. *Katigbak*, 14 I&N Dec. at 49 provides:

> If the petition is approved, he has established a priority date for visa number assignment as of the date that petition was filed. A petition may not be approved for a profession for which the Beneficiary is not qualified at the time of its filing. The Beneficiary cannot expect to qualify subsequently by taking additional courses and then still claim a priority date as of the date the petition was filed, a date on which he was not qualified.
>
> Section 204 of the Act requires the filing of a visa petition for classification under section 203(a)(3). The latter section states, in pertinent part: "Visas shall next be made available to *qualified immigrants* who *are members* of the professions." (Emphasis added.) It is clear that it was the intent of Congress that an alien be a recognized and fully qualified member of the professions at the time the petition is filed. Congress did not intend that a petition that was properly denied because the Beneficiary was not at that time qualified be subsequently approved at a future date when the Beneficiary may become qualified

> under a new set of facts. To do otherwise would make a farce of the preference system and priorities set up by statute and regulation.

Id. The Regional Commissioner continued this reasoning in *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Reg'l Comm'r 1977). That decision reemphasizes the importance of not obtaining a priority date prior to being eligible based on future experience. In fact, despite counsel's assertion to the contrary, this principle has been extended beyond the foreign national's eligibility for the classification sought. For example, an employer must establish its ability to pay the proffered wage as of the date of filing. *Matter of Great Wall*, 16 I&N Dec. 142, 144–45 (Acting Reg'l Comm'r 1977). That decision provides that a petition should not become approvable under a new set of facts. Recognizing that *Matter of Katigbak*, 14 I&N Dec. at 49 was not "foursquare with the instant case" in that it dealt with a beneficiary's eligibility, *Great Wall*, 16 I&N Dec. at 145 still applies the reasoning. The decision provides:

> In sixth-preference visa petition proceedings the Service must consider the merits of the Petitioner's job offer, so that a determination can be made whether the job offer is realistic and whether the wage offer can be met, as well as determine whether the alien meets the minimum requirements to perform the offered job satisfactorily. It follows that such consideration by the Service would necessarily be focused on the circumstances at the *time of filing* of the petition. The Petitioner in the instant case cannot expect to establish a priority date for visa issuance for the Beneficiary when at the time of making the job offer and the filing of the petition with this Service he could not, in all reality, pay the salary as stated in the job offer.

(Emphasis in original.) Finally, when evaluating revisions to a partnership agreement the Associate Commissioner stated that "a petition cannot be approved at a future date after the Petitioner becomes eligible under a new set of facts." *Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998). The *Izummi* decision further provides that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176. "To do otherwise would make a farce of the preference system and priorities set up by statute and regulation." *Matter of Bardouille*, 18 I&N Dec. 114, 117 (BIA 1981).

While citations published after the date of filing may serve as evidence of the continued relevance of a foreign national's work that had already been well cited as of the filing date, they cannot be considered evidence that they were already influential as of that date. Moreover, a petitioner's articles that were not published as of the date of filing and, thus, had not been subject to peer review and disseminated in the field as of that date, cannot establish eligibility as of the date of filing. To hold otherwise would have the untenable result of a foreign national securing a priority date based on the speculation that their work might prove influential while the petition is pending. The regulation at 8 C.F.R. § 103.2(b)(1), (12) further supports this limitation and requires a filing party to demonstrate eligibility as of the date they file the petition.

A. Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The primary requirements here are that the Petitioner's contributions in their field were original and they rise to the level of major significance in the field as a whole, rather than to a project or to an organization. *See Amin*, 24 F.4th at 394 (citing *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C.

2013)). The regulatory phrase "major significance" is not superfluous and, thus, it has some meaning. *Nielsen v. Preap*, 586 U.S. 392, 415 (2019) (finding that every word and every provision in a statute is to be given effect and none should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence). Further, the Petitioner's contributions must have already been realized rather than being potential, future improvements. Contributions of major significance connotes that the Petitioner's work has significantly impacted the field. The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The Director discussed the Petitioner's evidence to include her publication record, the journal rankings where her works were published, opinion letters from others in her field, and her judging service. While the Director acknowledged the originality of her work, they determined that she did not demonstrate that work was already of major significance in her field. Within the appeal, the Petitioner divides the brief into two sections. The first section discusses evidence the Director didn't mention in the denial, or didn't adequately evaluate. Within the second section, the Petitioner asserts the Director did not evaluate the evidence under the preponderance standard. Because there is some evidentiary crossover between the two sections, for simplicity, we will follow the same format in this decision that the Petitioner used in the appeal brief.

1. Evidence the Director Ignored or Failed to Evaluate

On appeal the Petitioner argues the Director either ignored or did not evaluate some of her evidence. For instance, regarding to her evidence relating to the citation percentiles, the Petitioner submitted an article to the Director from *Scientometrics* authored by Lutz Bornmann and Werner Marx, entitled "How to evaluate individual researchers working in the natural and life sciences meaningfully? A proposal of methods based on percentiles of citations."

This article presented their opinions for "how to evaluate individual researchers in the natural and life sciences" for purposes of funding and promotion or hiring decisions. The authors stated that "publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent" and that "the top 10% based excellence indicator" should be given "the highest weight when comparing the scientific performance of single researchers." But the Petitioner did not offer evidence establishing reputable academic or professional organizations have accepted and implemented these authors' methodology. Here, the Petitioner has not shown their alleged abuse of discretion, nor does this evidence satisfy their burden of persuasion. *See Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998) (finding that a petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion).

We further note these authors advise against "using Google Scholar (GS) as a basis for bibliometric analysis. Several studies have pointed out that GS has numerous deficiencies for research evaluation." Yet, the Petitioner has relied on Google Scholar materials throughout these proceedings.

Furthermore, the Petitioner submitted OpenAlex author metrics she claims compares her citation impact to that of other researchers. While this information lists a percentile ranking, we note issues that diminish the evidentiary value of the evidence. First, the material is not dated. Second, the document simply lists categories and data associated with those categories and it does not reflect that

the actual source of the information was OpenAlex as claimed. And third, the Petitioner did not submit material revealing the method by which the presented figures were calculated. This collectively means we have no method to verify the information the Petitioner presented. Although this does not render the evidence to be of no worth, its value is significantly diminished. The Petitioner cannot meet her burden of proof relying on this qualitatively deficient material. In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. *See Chawathe*, 25 I&N Dec. at 376 (quoting *Matter of E-M-*, 20 I&N Dec. 77, 79–80 (Comm'r 1989)).

Other material the Petitioner claims the Director did not consider consists of media articles, but a review of that material reveals it is insufficient. The *New York Post* and *New York Daily News* articles mentioned the university where the Petitioner received her PhD, but they do not mention her. Nor does the *Business Insider* article make any mention of the Petitioner. While we agree with the Petitioner that the Director did not analyze these articles, the Petitioner has not shown they are relevant to her claims that she has made contributions of major significance in her field, and we do not consider this to be a proper basis for the Petitioner's appeal.

And finally, the Petitioner claims the Director "did not engage with the letters of recommendation" from four authors. She asserts the authors of these four letters discussed the influence of the Petitioner's findings on the authors' own research work. She further mentions that two other letters discussed the impact of her research on the field at large. The appeal brief does not discuss each letter and convey how the individual author expressed her achievements in a manner that would help her in fulfilling this criterion's requirements. Based on this shortcoming and because the burden rests with the Petitioner to demonstrate how the Director erred, we will discuss a sampling of the letters.

The Petitioner's advisor at the university where she earned her PhD discussed both her and his qualifications and indicated that she discovered that a medication the Food and Drug Administration (FDA) approved to treat a form of arthritis (auranofin) was highly beneficial in limiting the severe acute respiratory syndrome coronavirus 2 (SARS-COV-2) infection. He further noted that her research contributed foundational knowledge needed to develop therapeutic treatments for COVID-19 and similar viruses.

However, this merely expresses the originality of her research but is absent of information relating to how that original research impacted the field. This is inadequate to show that the Petitioner's contributions rose to a level of major significance.

Next, we discuss a sample of the letters in which the authors discussed the influence of the Petitioner's work on their own and on other researchers' work. We will review the letter from [redacted] an assistant professor of microbiology and cell biology in India. Within his letter he described how the Petitioner's same research relating to the FDA-approved arthritis drug auranofin was incorporated into work published in *The Lancet Respiratory Medicine*. But a review of that work titled, [redacted] does not reveal that the authors found her work to be an overall benefit to prospective patients. Instead, the authors found that auranofin resulted in life-threatening conditions such as low

blood platelet counts and intra-abdominal sepsis leading to the death of test subjects.[1] The Petitioner's research contribution appears to be the type others in her field might want to avoid in treating COVID-19 patients, rather than the effective type of contribution to the field that the Petitioner presents it as in the appeal brief. Even though—as we have here—methods and treatment the field should avoid can be considered to be a contribution to the field, we conclude the Petitioner has not established that the evidence in the form of opinion letters adequately supports her claims under this criterion.

And to close out this section, we note that the lack of a direct discussion of evidence does not mean that the Director ignored it; it instead may mean that they considered it and concluded it was unpersuasive. *See United States v. Teixeira*, 62 F.4th 10, 25 (1st Cir. 2023) (concluding a trier of fact "need not articulate its conclusions as to every jot and tittle of evidence in making a determination"). "Nothing is to be gained by a laundry-list recital of all evidence on the record supporting each view on every issue." *Puerto Rico Mar. Shipping Auth. v. Fed. Mar. Comm'n*, 678 F.2d 327, 351 (D.C. Cir. 1982).

2. Preponderance of the Evidence Standard of Proof

The appeal brief couches the Petitioner's claims of the originality of her contributions, as well as that those contributions are of major significance, within the broader rubric that the Director did not apply the appropriate standard of proof: the preponderance of the evidence standard. Because the originality of her work was never in question, we will move to whether her contributions to the field rose to the level of major significance.

Before we address the remainder of the Petitioner's claims, we provide the foundation for the standard of proof. As with most administrative proceedings, the standard of proof for this petition is the preponderance of the evidence. The preponderance standard of proof is the degree, or level, of proof demanded in a specific case. We are ultimately deciding whether a petitioner's claims are sufficiently supported by relevant, probative, and credible evidence. *Chawathe*, 25 I&N Dec. at 369 reiterated the longstanding principle for the preponderance standard of proof. Ultimately, the truth is to be determined not by the quantity of evidence alone but by its quality. *Id.* at 376 (citing *E-M-*, 20 I&N Dec. at 79–80).

Now to the Petitioner's claims relating to her citation record and other opinion letters. For her citation record, the Petitioner identifies her published scholarly works and a book chapter she co-authored, her Google Scholar profile, and both the initially provided and the RFE response evidence from Clarivate Analytics InCites Essential Science Indicators. As we noted above, any material the Petitioner provided with the initially filed petition should factor into ours and the Director's decision but documentation submitted after that date that reflects her subsequent achievements will not play a role in this petition. 8 C.F.R. § 103.2(b)(1), (12); *Katigbak*, 14 I&N Dec. at 49.

The Petitioner's Google Scholar profile reflected she had published nine works as of the date she filed the petition. Only two of those papers received more than 28 citations. In this portion of the Petitioner's

[1] Robert S Wallis, et al., [redacted] (2021).

appeal brief, she does not explain how her Google Scholar profile individually, or combined with other evidence, demonstrates she has made contributions to her field that are of major significance. And within the appeal brief's other portions she does not adequately explain it either other than to state that the Director:

> [E]essentially dismissed the evidence of [the Petitioner's] 455 citations" and "USCIS reasoned that "[e]ven highly cited publications alone" [] were not sufficient to meet the requirements of 8 C.F.R. § 204.5(h)(3)(v) "absent evidence that they were of 'major significance' as a citation number or ranking does not provide sufficient context to determine the impact or importance of a given researcher's work in the field"

She then reengages the argument that the Director misapplied the *Katigbak* decision, which we disposed of as incorrect above.

Although the Petitioner claims that citations to her work demonstrate a contribution of major significance, she has not demonstrated that the number of citations is significant. Nor has she shown that a notable number of the citing authors placed unusual reliance on her work, resulting in a significant impact within the field. Researchers throughout a given field may cite other published works without the cited work being notably influential or serving as a foundational basis for their own work. Even though others within the Petitioner's field have relied on her research findings within their own work, this is not sufficient to demonstrate that she has made contributions of major significance within the field. We agree that such references to her work are a contribution in the field, the evidence the Petitioner submitted reflects such reliance is only an incremental contribution.

This portion of the appeal also identifies two additional opinion letters she claims plainly describe her research and explain why it is of major significance. The first letter is the same document we evaluated above from the Petitioner's advisor at the university where she attained her PhD, and he discusses the same original findings in which she discovered the effectiveness of an FDA-approved arthritis drug to treat SARS-COV-2. We reiterate that this treatment was later found to have possibly deadly or life-threatening effects in COVID-19 patients. Nevertheless, the Petitioner's advisor explained how these were original findings, stated it was significant, but stopped short of describing how those findings had any discernible effect in her field of endeavor.

The second letter the Petitioner identifies is from Dr. [redacted] in which he discussed the need for a vaccine that simultaneously protects against COVID-19 and influenza viruses, and which this foreign national addressed through her research. He explained that she created a streamlined approach to vaccinations by simplifying the process, the vaccine's success in testing on mice, and indicated it provided insights into the development of multivalent vaccines. But he too falls short of delineating any impact of the Petitioner's approach within her field.

And finally, the Petitioner contends that USCIS "fail[ed] to engage with all of the relevant evidence submitted in this case." Although we agree with the Petitioner that the Director did not directly discuss every piece of evidence that she considers as salient to qualifying under this program, she has not established how those omitted elements demonstrated her eligibility. In other words, the Petitioner did not explain how the Director's failure to discuss every document in detail changed the outcome of the case. And such a showing is the Petitioner's burden, which she fell short of meeting.

When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the foreign national presents. *Amin*, 24 F.4th at 394; *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000); *see also Pakasi v. Holder*, 577 F.3d 44, 48 (1st Cir. 2009); *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009). It is not enough to demonstrate errors in an agency's decision; the Petitioner must also establish that she was prejudiced by the mistakes. *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009); *Molina-Martinez v. United States*, 578 U.S. 189, 203 (2016); *Amin*, 24 F.4th at 394.

As the Petitioner has not demonstrated she was prejudiced by the lack of discussion of any evidence, even if we agreed that this was an error, such a lapse appears harmless and is insufficient grounds upon which to base this appeal. Errors can be overlooked when they had no bearing on the substance of an agency's decision. *Aguilar v. Garland*, 60 F.4th 401, 407 (8th Cir. 2023) (citing *Prohibition Juice Co. v. United States Food & Drug Admin.*, 45 F.4th 8, 24 (D.C. Cir. 2022)). The party that "seeks to have a judgment set aside because of an erroneous ruling carries the burden of showing that prejudice resulted." *Shinseki*, 556 U.S. at 409 (quoting *Palmer v. Hoffman*, 318 U.S. 109, 116 (1943)); *Molina-Martinez*, 578 U.S. at 203.

In summary, the Petitioner has not submitted evidence that meets the plain language requirements of this criterion.

B. Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner claimed her eligibility under this criterion in the RFE response, but the Director did not offer any analysis relating to her claims or evidence in the denial decision.

A leading role should be apparent by its position in the overall organizational hierarchy and the role's matching duties. A critical role should be apparent from the Petitioner's impact on the entity's activities. The Petitioner's performance in any role should establish whether it was leading or critical for organizations, establishments, divisions, or departments *as a whole*. Ultimately, the leading or the critical role must be performed on behalf of the organization, establishment, division, or department that enjoys a distinguished reputation, rather than for a unit subordinate to these listed entities. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual.

USCIS policy reflects that organizations, establishments, divisions, or departments that enjoy a distinguished reputation are "marked by eminence, distinction, or excellence." *Id.* (citing to the definition of *distinguished*, *Merriam-Webster*, https://www.merriam-webster.com/dictionary/distinguished). The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The evidence reflects the named organization has a positive reputation and has experienced some notable successes. But the Petitioner did not offer probative evidence that, within its industry, this entity has a distinguished reputation meaning:

- It is in "a position of prominence or superiority"[2];
- It has "the quality or state of being excellent or superior"[3]; or
- It has "the quality of being excellent"[4] or "very good of its kind : eminently good : first-class"[5].

The evidence in the record does not adequately reflect this entity enjoys a distinguished reputation and we will not presume as much based on its work "closely tied" to a COVID-19 vaccine and therapeutic development initiative with the U.S. government. The Petitioner did not explain why government grants, contracts, or other forms of financial support illustrate this organization's distinguished reputation. Government grants or funding do not necessarily establish that the receiving organization or establishment "is 'marked by eminence, distinction, or excellence . . . .'" *Chursov v. Miller*, No. 18-CV-2886 (PKC), 2019 WL 2085199, at *8 (S.D.N.Y. May 13, 2019). Additionally, the majority of the supporting evidence was either news releases from the company itself, only portions of a document, or material that postdated the petition filing date.

Regarding the news releases from the company itself, this does not amount to independent, objective evidence establishing that it has a distinguished reputation pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii). Much like with self-promotion relating to published material under a different criterion, USCIS is not required to rely on the self-promotional material of a company and "we may require more than the publication's own say-so that it" has a distinguished reputation. *Cf. Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 185 (D.N.J. 2021) (citing *Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *7 (C.D. Cal. July 6, 2007) *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (concluding that we did not have to rely on a company's self-serving assertions on the cover of a magazine as to the magazine's status as major media)); *Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023).

And pertaining to the evidence that postdated the petition filing date, a petitioner must establish eligibility at the time they file the visa petition. 8 C.F.R. § 103.2(b)(1), (12). USCIS may not approve a visa petition if the petitioner was not qualified at the priority date but expects to become eligible at a subsequent time. *See Izummi,* 22 I&N Dec. at 175–76; *Katigbak*, 14 I&N Dec. at 49.

Because the Petitioner has not submitted sufficient evidence to demonstrate the organization enjoys a distinguished reputation and that is dispositive of this claim, it is unnecessary for us to evaluate whether she performed in a leading or critical role for the entity. In sum, the Petitioner has not submitted evidence that meets the plain language requirements of this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119–20. Nevertheless, we advise

[2] *Eminence*, Merriam-Webster.com Dictionary (Sept. 27, 2024), https://www.merriam-webster.com/dictionary/eminence.
[3] *Distinction* (sense 4), Merriam-Webster.com Dictionary (Sept. 30, 2024), https://www.merriam-webster.com/dictionary/distinction.
[4] *Excellence*, Merriam-Webster.com Dictionary (Oct. 3, 2024), https://www.merriam-webster.com/dictionary/excellence.
[5] *Excellent*, Merriam-Webster.com Dictionary (Sept. 17, 2024), https://www.merriam-webster.com/dictionary/excellent.

that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward that goal. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown the significance of their work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A). Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and they are one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.